

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES

v.

DAVID HARVILLE

Case No. 1:20-cr-10263-PBS-2

**DEFENDANT DAVID HARVILLE’S MOTION TO COMPEL GOVERNMENT TO  
SUPPLEMENT DISCOVERY AND REQUEST FOR HEARING**

NOW COMES defendant David Harville (“Defendant”), through his undersigned counsel, and pursuant to Local Rules 116.1, 116.2 and 116.3, Fed. R. Crim. P. 16, *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972)<sup>1</sup>, as well as 18 U.S.C. § 3500 (“Jencks Act”) and the provisions of due process, confrontation and right to effective assistance of counsel provisions of the Fifth Amendment and Sixth Amendment, respectively, to the United States Constitution, and respectfully moves this Honorable Court to compel the Government to supplement its discovery production with respect to **Request No. 2** (as narrowed herein), and **Request No. 4** of Defendant’s discovery letter to the Government dated June 14, 2021 (Document No. 60).

Defendant submits the following as grounds for his instant motion:

1. Defendant filed and served a discovery letter dated June 14, 2021 in accordance with Local Rule 116.3 (Document No. 60).
2. The Government filed and served its response letter dated June 22, 2021 (Document No. 61).

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<sup>1</sup>Parallel reporter citations omitted.

3. Defendant's June 14, 2021 discovery letter contains five (5) requests, and Defendant is moving to compel herein as to **Request No. 2** and **Request No. 4**.

4. **Request No. 2** seeks all "302" reports created by the Government concerning the subject matter of the indictments in the above-captioned action. Defendant herein narrows the scope of **Request No. 2** as to "302" reports concerning those individuals the Government has disclosed as cooperating witnesses who were interviewed pursuant to a proffer agreement, and will be called as witnesses should the above-captioned matter proceed to trial.

5. **Request No. 4** seeks early production of *Jenks* material, at a minimum, for all unindicted co-conspirators identified in the Government's discovery disclosure letter dated December 21, 2021.

6. As detailed in Defendant's supporting memorandum filed concurrently herewith, statements by witnesses reduced by the Government into "302" reports that could be considered a hybrid of exculpatory and *Jenks* material should be produced to Defendant forthwith under Local Rule 116.2, *Brady* and *Giglio*.

**WHEREFORE**, based on the reasons set forth above, the argument made in the supporting memorandum filed concurrently herewith, Defendant respectfully requests this Honorable Court allow his within motion to compel discovery as to **Request No. 2** and **Request No. 4** of his June 14, 2021 discovery letter.

**LOCAL RULE 116.3(F) CERTIFICATION**

Counsel for Defendant and the Government conferred by telephone on August 12, 2021 and August 13, 2021 in a good faith attempt to eliminate and/or narrow the issues raised in Defendant's within motion to compel prior to its filing.

**REQUEST FOR HEARING**

Defendant respectfully requests that this Honorable Court hear Defendant through his counsel on the within motion.

Dated: August 13, 2021

Respectfully submitted,

**DEFENDANT DAVID HARVILLE**

By his attorneys,

/s/ Daniel K. Gelb

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**CERTIFICATE OF SERVICE**

The undersigned counsel certifies that on August 13, 2021 this document was electronically filed with the Clerk of Court for the United States District Court for the District of Massachusetts using the CM/ECF system, which will send a notice of electronic filing (NEF) to all registered participants in the above-captioned action.

/s/ Daniel K. Gelb

Daniel K. Gelb, Esquire